SENATE BILL No. 98

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-13; IC 5-8.

Synopsis: Vacancies caused by death. Establishes a procedure for any person to give notice of the death of an elective or a judicial officer to begin the process of filling the vacancy in office. Changes the time limit for holding a meeting or caucus to fill a vacancy.

Effective: July 1, 2003.

Dillon

January 7, 2003, read first time and referred to Committee on Elections and Civic Affairs.





First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 98

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

- SECTION 1. IC 3-13-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) **This section applies to** a vacancy that occurs other than by resignation, in a state office other than governor, lieutenant governor, or a judicial office.
- (b) If a state officer wants to resign from office, the state officer must resign as provided in IC 5-8-3.5.
- (c) A vacancy that occurs in a state office because of the death of the state officer may be certified to the governor under IC 5-8-6.
- (d) A vacancy that occurs in a state office other than by resignation or death shall be certified to the governor by the circuit court clerk of the county in which the officer resided.
- (b) (e) The governor shall fill a vacancy in a state office other than governor, lieutenant governor, or a judicial office shall be filled by appointment. by The governor may not fill a vacancy as provided by law until the governor receives notice of the death under IC 5-8-6.
- **(f)** The person who is appointed **by the governor** holds office for the remainder of the unexpired term and until a successor is elected and



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1	qualified.
2	SECTION 2. IC 3-13-5-1, AS AMENDED BY P.L.26-2000,
3	SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4	JULY 1, 2003]: Sec. 1. (a) A vacancy in a legislative office shall be
5	filled by a caucus comprised of the precinct committeemen from the
6	senate or house district where the vacancy exists who represent the
7	same political party that elected or selected the person who held the
8	vacated seat.
9	(b) Not later than thirty (30) days after the vacancy occurs (or as
10	provided in subsection (c), subsections (c) and (d)), the caucus shall
11	meet and select a person to fill the vacancy by a majority vote of those
12	casting a vote for a candidate, including vice committeemen eligible to
13	vote as a proxy under section 5 of this chapter.
14	(c) A state chairman may give notice of a caucus before the time
15	specified under subsection (b) if a vacancy will exist because the
16	official has:
17	(1) submitted a written resignation under IC 5-8-3.5 that has not
18	yet taken effect; or
19	(2) been elected to another office.
20	(d) If a vacancy in a legislative office exists because of the death
21	of the legislator, the caucus shall meet and select a person to fill the
22	vacancy not later than thirty (30) days after the state chairman
23	receives a notice of the death of the elective officer from the
24	secretary of state under IC 5-8-6.
25	(e) Notwithstanding IC 5-8-4, a person may not withdraw the
26	person's resignation after the resignation has been accepted by the
27	person authorized to accept the resignation less than seventy-two (72)
28	hours before the announced starting time of the caucus under this
29	chapter.
30	(e) (f) The person selected must reside in the district where the
31	vacancy occurred.
32	SECTION 3. IC 3-13-5-2 IS AMENDED TO READ AS FOLLOWS
33	[EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The state chairman of the
34	political party that elected or selected the person who held the vacated
35	seat shall set the place, date, and time of a caucus meeting. The
36	chairman shall send a notice, by first class mail, of the purpose, place,
37	date, and time of the meeting to all precinct committeemen in the
38	caucus at least ten (10) days before the meeting.

(b) If a vacancy in a legislative office exists because of the death

of the legislator, the state chairman may not send the notice

required by subsection (a) until the state chairman receives a

notice of the death from the secretary of state under IC 5-8-6.



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1	SECTION 4. IC 3-13-6-1 IS AMENDED TO READ AS FOLLOWS
2	[EFFECTIVE JULY 1, 2003]: Sec. 1. (a) As used in this section,
3	"judge" refers to a judge of a circuit, superior, probate, or county
4	court.
5	(b) If a judge wants to resign from office, the judge must resign
6	as provided in IC 5-8-3.5.
7	(c) A vacancy that occurs because of the death of a judge may
8	be certified to the governor under IC 5-8-6.
9	(d) A vacancy that occurs other than by resignation in the office or
10	death of a judge of a circuit, superior, probate, or county court shall be
11	certified to the governor by the circuit court clerk of the county in
12	which the judge resided.
13	(b) (e) A vacancy in the office of judge of a circuit court shall be
14	filled by the governor as provided by Article 5, Section 18 of the
15	Constitution of the State of Indiana. However, the governor may not
16	fill a vacancy that occurs because of the death of a judge until the
17	governor is notified of the death under IC 5-8-6. The person who is
18	appointed holds the office until:
19	(1) the end of the unexpired term; or
20	(2) a successor is elected at the next general election and
21	qualified;
22	whichever occurs first. The person elected at the general election
23	following an appointment to fill the vacancy, upon being qualified,
24	holds office for the six (6) year term prescribed by Article 7, Section 7
25	of the Constitution of the State of Indiana and until a successor is
26	elected and qualified.
27	(c) A vacancy in the office of judge of a superior, probate, or county
28	court shall be filled by the governor subject to the following:
29	(1) IC 33-5-5.1-37.1.
30	(2) IC 33-5-5.1-41.1.
31	(3) IC 33-5-29.5-39.
32	(4) IC 33-5-40-44.
33	However, the governor may not fill a vacancy that occurs because
34	of the death of a judge until the governor is notified of the death
35	under IC 5-8-6. The person who is appointed holds office for the
36	remainder of the unexpired term.
37	SECTION 5. IC 3-13-7-2 IS AMENDED TO READ AS FOLLOWS
38	[EFFECTIVE JULY 1, 2003]: Sec. 2. (a) This section applies to a
39	vacancy in a county elected office (other than county council) not
40	covered by section 1 of this chapter.
41	(b) A vacancy shall be filled by the board of commissioners of the
42	county at a regular or special meeting. The county auditor shall give



notice of the meeting. which Except as provided in subsection (d),
the meeting shall be held within not later than thirty (30) days after
the vacancy occurs. The notice must:
(1) be in writing;
(2) state the purpose of the meeting;
(3) state the date, time, and place of the meeting; and
(4) be sent by first class mail to each commissioner at least ten
(10) days before the meeting.
(b) (c) Selections made under this section (or under IC 3-2-10-3(a)
before its repeal on March 4, 1986) are appointments pro tempore for
the purposes of Article 2, Section 11 of the Constitution of the State of
Indiana.
(d) If a vacancy occurs because of the death of an elected county
officer, the board of commissioners shall meet and select an
individual to fill the vacancy not later than thirty (30) days after
the county auditor receives notice of the death under IC 5-8-6. The
county auditor may not give the notice required under subsection
(b) until the county auditor receives notice of the death under
IC 5-8-6.
SECTION 6. IC 3-13-7-3 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2003]: Sec. 3. (a) This section applies to a
vacancy in a county council not covered by section 1 of this chapter.
(b) A vacancy shall be filled by a majority of the remaining
members of the council at a regular or special meeting. The county auditor shall give notice of the meeting. which Except as provided in
subsection (c), the meeting shall be held within not later than thirty (30) days after the vacancy occurs. The notice must:
(1) be in writing;
(2) state the purpose of the meeting;
(3) state the date, time, and place of the meeting; and
(4) be sent by first class mail to each council member at least ten
(10) days before the meeting.
(c) If a vacancy occurs because of the death of a county council
member, the county council shall meet and select an individual to
fill the vacancy not later than thirty (30) days after the county
auditor receives a notice of the death under IC 5-8-6. The county
auditor may not give the notice required under subsection (b) until
the county auditor receives notice of the death under IC 5-8-6.
SECTION 7. IC 3-13-8-2 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2003]: Sec. 2. (a) As used in this section,
"judge" refers to a judge of a city court.

(b) If a judge wishes to resign from office, the judge must resign



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1	as provided in IC 5-8-3.5.
2	(c) A vacancy that occurs because of the death of a judge may
3	be certified to the governor under IC 5-8-6.
4	(d) A vacancy that occurs, other than by resignation in the office or
5	death of a judge of a city court shall be certified to the governor by the
6	circuit court clerk of the county in which the judge resided.
7	(b) (e) A vacancy in the office of judge of a city court shall be filled
8	by the governor. However, the governor may not fill a vacancy that
9	occurs because of the death of a judge until the governor receives
10	notice of the death under IC 5-8-6.
11	SECTION 8. IC 3-13-8-3 IS AMENDED TO READ AS FOLLOWS
12	[EFFECTIVE JULY 1, 2003]: Sec. 3. (a) This section applies to a
13	vacancy in the office of mayor of a first class city not covered by
14	section 1 of this chapter.
15	(b) The vacancy shall be filled by the city-county council at a
16	regular or special meeting. The city clerk shall give notice of the
17	meeting. which Except as provided in subsection (d), the meeting
18	shall be held within not later than thirty (30) days after the vacancy
19	occurs. The notice must:
20	(1) be in writing;
21	(2) state the purpose of the meeting;
22	(3) state the date, time, and place of the meeting; and
23	(4) be sent by first class mail to each council member at least ten
24	(10) days before the meeting.
25	(b) (c) The city clerk shall preside at the meeting but may not vote
26	unless there is a tie vote among the members of the council. The
27	council must appoint one (1) of its own members to the office. Until the
28	vacancy is filled, the president of the council shall serve as acting
29	mayor.
30	(d) If a vacancy exists because of the death of the mayor, the
31	council shall meet and select an individual to fill the vacancy not
32	later than thirty (30) days after the city clerk receives a notice of
33	the death under IC 5-8-6. The city clerk may not give notice
34	required under subsection (b) until the city clerk receives notice of
35	the death under IC 5-8-6.
36	SECTION 9. IC 3-13-8-4 IS AMENDED TO READ AS FOLLOWS
37	[EFFECTIVE JULY 1, 2003]: Sec. 4. (a) This section applies to a
38	vacancy in the city-county council of a first class city not covered by
39	section 1 of this chapter.
40	(b) A vacancy shall be filled by a majority of the remaining
41	members of the council at a regular or special meeting. The city clerk
42	shall give notice of the meeting. which Except as provided in



1	subsection (c), the meeting shall be neighborship not later than thirty
2	(30) days after the vacancy occurs. The notice must:
3	(1) be in writing;
4	(2) state the purpose of the meeting;
5	(3) state the date, time, and place of the meeting; and
6	(4) be sent by first class mail to each council member at least ten
7	(10) days before the meeting.
8	(c) If a vacancy exists because of the death of a council member,
9	the council shall meet and select an individual to fill the vacancy
.0	not later than thirty (30) days after the city clerk receives a notice
. 1	of the death under IC 5-8-6. The city clerk may not give the notice
2	required under subsection (b) until the city clerk receives notice of
.3	the death under IC 5-8-6.
4	(b) (d) The appointed member serves until a successor is elected
.5	and qualified at the next municipal or general election, whichever
.6	occurs first. The successor serves from noon January 1 following that
7	election to noon January 1 following the next municipal election, as
8	provided in IC 36-3-4-2. The persons appointed and elected must be
9	resident voters in the district where the vacancy occurred, unless the
20	vacancy occurred in an at large seat.
21	SECTION 10. IC 3-13-8-5 IS AMENDED TO READ AS
22	FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) This section
23	applies to a vacancy in the office of mayor of a second class city not
24	covered by section 1 of this chapter.
25	(b) A vacancy shall be filled as follows:
26	(1) If the city has a deputy mayor, the deputy mayor assumes the
27	office for the remainder of the unexpired term.
28	(2) If the city does not have a deputy mayor, the city controller
29	assumes the office for the remainder of the unexpired term.
30	(3) If the city does not have a deputy mayor and the office of city
31	controller is vacant, the common council shall fill the vacancy at
32	a regular or special meeting.
33	(b) (c) The city clerk shall give notice of the meeting required under
34	subsection (a)(3), which (b)(3). Except as provided in subsection (d),
35	the meeting shall be held within not later than thirty (30) days after
36	the vacancy occurs. The notice must:
37	(1) be in writing;
88	(2) state the purpose of the meeting;
39	(3) state the date, time, and place of the meeting; and
10	(4) be sent by first class mail to each council member at least ten
11	(10) days before the meeting.
12	(d) If a vacancy exists because of the death of the mayor, the



later than thirty (30) days after the city clerk receives a notice of the death under IC 5-8-6. The city clerk may not give the notice required under subsection (c) until the city clerk receives notice of the death under IC 5-8-6. (c) (e) Until the vacancy is filled, the council shall designate one (1) of its members to serve as acting mayor. SECTION 11. IC 3-13-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) This section applies to a vacancy in the office of city clerk of a second class city not covered by section 1 of this chapter. (b) A vacancy shall be filled by the mayor or acting mayor, subject to the approval of the common council. However, if a vacancy exists because of the death of the city clerk, the mayor or acting mayor may not fill the vacancy until the mayor or acting mayor is notified of the death under IC 5-8-6. (b) (c) The common council shall vote on the question of approving the mayor or acting mayor's appointment at a regular or special meeting. The president of the common council shall give notice of the meeting, which shall be held within not later than thirty (30) days after the appointment is made. The notice must: (1) be in writing; (2) state the purpose of the meeting; (3) state the date, time, and place of the meeting; and (4) be sent by first class mail to each council member at least ten (10) days before the meeting. SECTION 12. IC 3-13-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) This section applies to a vacancy in the common council of a second class city not covered by section 1 of this chapter. (b) A vacancy shall be filled by the remaining members of the council at a regular or special meeting. The city clerk shall give notice of the meeting shall be held within not later than thirty (30) days after the vacancy occurs. The notice must: (1) be in writing; (2) state the purpose of the meeting; (3) state the date, time, and place of the meeting; and (4) be sent by first class mail to each council member at least ten	1	council shall meet and select an individual to fill the vacancy not
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() ;		
TO IT A VACABLE EXISTS DECAUSE OF THE DEATH OF A COUNCIL MEMBER.	41	(c) If a vacancy exists because of the death of a council member,
the council shall meet and select an individual to fill the vacancy		•



1	not later than thirty (30) days after the city clerk receives a notice
2	of the death under IC 5-8-6. The city clerk may not give the notice
3	required under subsection (b) until the city clerk receives notice of
4	the death under IC 5-8-6.
5	SECTION 13. IC 3-13-8-8 IS AMENDED TO READ AS
6	FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) This section
7	applies to a vacancy in the office of mayor of a third class city not
8	covered by section 1 of this chapter.
9	(b) A vacancy shall be filled as follows:
10	(1) If the city has a deputy mayor, the deputy mayor assumes the
11	office for the remainder of the unexpired term.
12	(2) If the city does not have a deputy mayor, the common council
13	shall fill the vacancy at a regular or special meeting.
14	(b) (c) The city clerk-treasurer shall give notice of the meeting
15	required under subsection (a)(2), which (b)(2). Except as provided in
16	subsection (d), the meeting shall be held within not later than thirty
17	(30) days after the vacancy occurs. The notice must:
18	(1) be in writing;
19	(2) state the purpose of the meeting;
20	(3) state the date, time, and place of the meeting; and
21	(4) be sent by first class mail to each council member at least ten
22	(10) days before the meeting.
23	(d) If a vacancy exists because of the death of the mayor, the
24	council shall meet and select an individual to fill the vacancy not
25	later than thirty (30) days after the city clerk-treasurer receives
26	notice of the death under IC 5-8-6. The city clerk-treasurer may
27	not give the notice required under subsection (c) until the city
28	clerk-treasurer receives notice of the death under IC 5-8-6.
29	(c) (e) Until the vacancy is filled, the council shall designate one (1)
30	of its members to serve as acting mayor.
31	SECTION 14. IC 3-13-8-9 IS AMENDED TO READ AS
32	FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) This section
33	applies to a vacancy in the office of city clerk-treasurer of a third class
34	city not covered by section 1 of this chapter.
35	(b) The vacancy shall be filled by the mayor or acting mayor,
36	subject to the approval of the common council. However, if a vacancy
37	exists because of the death of the city clerk-treasurer, the mayor or
38	acting mayor may not fill the vacancy until the mayor or acting
39	mayor is notified of the death under IC 5-8-6.
40	(b) (c) The common council shall vote on the question of approving
41	the mayor or acting mayor's appointment at a regular or special

meeting. The mayor shall give notice of the meeting, which shall be



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1	held within not later than thirty (30) days after the appointment is
2	made. The notice must:
3	(1) be in writing;
4	(2) state the purpose of the meeting;
5	(3) state the date, time, and place of the meeting; and
6	(4) be sent by first class mail to each council member at least ten
7	(10) days before the meeting.
8	SECTION 15. IC 3-13-8-10 IS AMENDED TO READ AS
9	FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) This section
.0	applies to a vacancy in the common council of a third class city not
.1	covered by section 1 of this chapter.
.2	(b) A vacancy shall be filled by the remaining members of the
.3	council at a regular or special meeting. The city executive may break
.4	any tie vote.
.5	(b) (c) The city clerk-treasurer shall give notice of the meeting.
.6	which Except as provided in subsection (d), the meeting shall be
.7	held within not later than thirty (30) days after the vacancy occurs.
. 8	The notice must:
.9	(1) be in writing;
20	(2) state the purpose of the meeting;
21	(3) state the date, time, and place of the meeting; and
22	(4) be sent by first class mail to each council member at least ten
23	(10) days before the meeting.
24	(d) If a vacancy exists because of the death of a council member,
25	the council shall meet and select an individual to fill the vacancy
26	not later than thirty (30) days after the city clerk-treasurer
27	receives notice of the death under IC 5-8-6. The city
28	clerk-treasurer may not give the notice required under subsection
29	(c) until the city clerk-treasurer receives notice of the death under
30	IC 5-8-6.
31	SECTION 16. IC 3-13-9-2 IS AMENDED TO READ AS
32	FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) This section
33	applies to a vacancy in the office of judge of a town court that is:
34	(1) not covered by section 1 of this chapter; or
35	(2) covered by section 1 of this chapter, but exists existing after
36	the thirtieth day after the vacancy occurs.
37	(b) A vacancy shall be filled by the town council at a regular or
88	special meeting.
39	(b) (c) The town clerk-treasurer shall give notice of the meeting.
10	which Except as provided in subsection (e) or (f), the meeting shall
1	be held:
12	(1) within not later than thirty (30) days after the vacancy occurs



1	if the vacancy is not covered by section 1 of this chapter; or
2	(2) within not later than sixty (60) days after the vacancy occurs
3	if the vacancy is covered by section 1 of this chapter and exists
4	for more than thirty (30) days.
5	(c) (d) The notice must:
6	(1) be in writing;
7	(2) state the purpose of the meeting;
8	(3) state the date, time, and place of the meeting; and
9	(4) be sent by first class mail to each council member at least ten
10	(10) days before the meeting.
11	(e) Notwithstanding subsection (c), if a vacancy:
12	(1) is not covered by section 1 of this chapter; and
13	(2) exists because of the death of a judge;
14	the council shall meet and select an individual to fill the vacancy
15	not later than thirty (30) days after the town clerk-treasurer
16	receives notice of the death under IC 5-8-6. The town
17	clerk-treasurer may not give the notice required under subsection
18	(c) until the town clerk-treasurer receives notice of the death under
19	IC 5-8-6.
20	(f) Notwithstanding subsection (c), if a vacancy:
21	(1) is covered by section 1 of this chapter;
22	(2) exists because of the death of a judge; and
23	(3) exists for more than thirty (30) days;
24	the council shall meet and select an individual to fill the vacancy
25	not later than sixty (60) days after the town clerk-treasurer
26	receives a notice of the death under IC 5-8-6. The town
27	clerk-treasurer may not give the notice required under subsection
28	(c) until the town clerk-treasurer receives notice of the death under
29	IC 5-8-6.
30	SECTION 17. IC 3-13-9-3 IS AMENDED TO READ AS
31	FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) This section
32	applies to a vacancy in the office of town clerk-treasurer:
33	(1) not covered by section 1 of this chapter; or
34	(2) covered by section 1 of this chapter, but existing after the
35	thirtieth day after the vacancy occurs.
36	(b) A vacancy shall be filled by the town council at a regular or
37	special meeting.
38	(b) (c) The president of the town council shall give notice of the
39	meeting. which Except as provided in subsection (e) or (f), the
40	meeting shall be held:
41	(1) within not later than thirty (30) days after the vacancy occurs
42	if the vacancy is not covered by section 1 of this chapter; or



1	(2) within not later than sixty (60) days after the vacancy occurs
2	if the vacancy is covered by section 1 of this chapter and exists
3	for more than thirty (30) days.
4	(c) (d) The notice must:
5	(1) be in writing;
6	(2) state the purpose of the meeting;
7	(3) state the date, time, and place of the meeting; and
8	(4) be sent by first class mail to each council member at least ten
9	(10) days before the meeting.
10	(e) Notwithstanding subsection (c), if a vacancy:
11	(1) is not covered by section 1 of this chapter; and
12	(2) exists because of the death of the town clerk-treasurer;
13	the council shall meet and select an individual to fill the vacancy
14	not later than thirty (30) days after the president of the town
15	council receives a notice of the death under IC 5-8-6. The president
16	of the town council may not give the notice required under
17	subsection (c) until the president of the town council receives notice
18	of the death under IC 5-8-6.
19	(f) Notwithstanding subsection (c), if a vacancy:
20	(1) is covered by section 1 of this chapter;
21	(2) exists because of the death of the town clerk-treasurer;
22	and
23	(3) exists for more than thirty (30) days;
24	the council shall meet and select an individual to fill the vacancy
25	not later than sixty (60) days after the president of the town council
26	receives notice of the death under IC 5-8-6. The president of the
27	town council may not give the notice required under subsection (c)
28	until the president of the town council receives notice of the death
29	under IC 5-8-6.
30	SECTION 18. IC 3-13-9-4, AS AMENDED BY P.L.174-2002,
31	SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32	JULY 1, 2003]: Sec. 4. (a) This section applies to a vacancy in the
33	town council:
34	(1) not covered by section 1 of this chapter; or
35	(2) covered by section 1 of this chapter, but existing after the
36	thirtieth day after the vacancy occurs.
37	(b) The vacancy shall be filled by the remaining members of the
38	council at a regular or special meeting.
39	(b) (c) The town clerk-treasurer shall give notice of the meeting.
40	Except as provided in subsection (d) or (e), (f), (g), or (h), the meeting
41	shall be held:
42	(1) within not later than thirty (30) days after the vacancy occurs



1	if the vacancy is not covered by section 1 of this chapter; or
2	(2) within not later than sixty (60) days after the vacancy occurs
3	if the vacancy is covered by section 1 of this chapter and exists for
4	more than thirty (30) days.
5	(c) (d) The notice must:
6	(1) be in writing;
7	(2) state the purpose of the meeting;
8	(3) state the date, time, and place of the meeting; and
9	(4) be sent by first class mail to each council member at least ten
0	(10) days before the meeting.
1	(d) (e) Notwithstanding subsection (b), (c), if a vacancy:
2	(1) is not covered by subsection (f) or section 1 of this chapter;
3	and
4	(2) exists because a circumstance has occurred under
.5	IC 36-5-2-6.5(2) through IC 36-5-2-6.5(4) IC 36-5-2-6.5(3);
6	the town council shall meet and select an individual to fill the vacancy
7	not later than thirty (30) days after the town council determines that a
8	circumstance has occurred under IC 36-5-2-6.5(2) through
9	IC 36-5-2-6.5(4). IC 36-5-2-6.5(3).
20	(f) Notwithstanding subsection (c), if a vacancy:
21	(1) is not covered by subsection (e) or section 1 of this chapter;
22	and
23	(2) exists because a circumstance has occurred under
24	IC 36-5-2-6.5(2);
25	the town council shall meet and select an individual to fill the
26	vacancy not later than thirty (30) days after the town
27	clerk-treasurer receives a notice of the death under IC 5-8-6. The
28	town clerk-treasurer may not give the notice required by
29	subsection (c) until the town clerk-treasurer receives notice of the
30	death under IC 5-8-6.
31	(e) (g) Notwithstanding subsection (b), (c), if a vacancy:
32	(1) is covered by section 1 of this chapter and not covered by
33	subsection (h);
34	(2) exists because a circumstance has occurred under
35	IC 36-5-2-6.5(2) through IC 36-5-2-6.5(4); IC 36-5-2-6.5(3); and
86	(3) exists for more than thirty (30) days;
37	the council shall meet and select an individual to fill the vacancy not
88	later than sixty (60) days after the town council determines that a
39	circumstance has occurred under IC 36-5-2-6.5(2) through
10	IC 36-5-2-6.5(4) IC 36-5-2-6.5(3).
1	(h) Notwithstanding subsection (c), if a vacancy:
12	(1) is covered by section 1 of this chapter and not covered by



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1	subsection (g);
2	(2) exists because a circumstance has occurred under
3	IC 36-5-2-6.5(2); and
4	(3) exists for more than thirty (30) days;
5	the council shall meet and select an individual to fill the vacancy
6	not later than sixty (60) days after the town clerk-treasurer
7	receives a notice of the death under IC 5-8-6. The town
8	clerk-treasurer may not give the notice required by subsection (c)
9	until the town clerk-treasurer receives notice of the death under
10	IC 5-8-6.
11	SECTION 19. IC 3-13-10-2 IS AMENDED TO READ AS
12	FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) This section
13	applies to a vacancy in the office of township trustee not covered by
14	section 1 of this chapter.
15	(b) The vacancy shall be filled by the board of commissioners of
16	the county at a regular or special meeting. The county auditor shall give
17	notice of the meeting. which Except as provided in subsection (c), the
18	meeting shall be held within not later than thirty (30) days after the
19	vacancy occurs. The notice must:
20	(1) be in writing;
21	(2) state the purpose of the meeting;
22	(3) state the date, time, and place of the meeting; and
23	(4) be sent by first class mail to each commissioner at least ten
24	(10) days before the meeting.
25	(c) If the vacancy exists because of the death of the township
26	trustee, the board of commissioners shall meet and select an
27	individual to fill the vacancy not later than thirty (30) days after
28	the county auditor receives a notice of the death under IC 5-8-6.
29	The county auditor may not give the notice required under
30	subsection (b) until the county auditor receives notice of the death under IC 5-8-6.
31 32	SECTION 20. IC 3-13-10-3, AS AMENDED BY P.L.90-2002,
33	SECTION 20. IC 3-13-10-3, AS AMENDED BY F.L.90-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34	JULY 1, 2003]: Sec. 3. (a) This section applies to a vacancy in the
35	office of township assessor not covered by section 1 of this chapter.
36	(b) A vacancy shall be filled by the county assessor, subject to the
37	approval of the department of local government finance. Except as
38	provided in subsection (c), the county assessor shall make the
39	appointment within not later than thirty (30) days after the vacancy
40	occurs. If the vacancy occurred because the elected township assessor
41	failed to qualify or was removed, the person who is appointed must be
1.1	ranca to quanty or was removed, the person who is appointed must be

of the same political party as the elected township assessor.



1	(c) If a vacancy exists because of the death of the township
2	assessor, the county assessor shall make the appointment required
3	under subsection (b) not later than thirty (30) days after the county
4	assessor receives a notice of the death under IC 5-8-6. The county
5	assessor may not fill the vacancy as required by subsection (b) until
6	the county assessor receives notice of the death under IC 5-8-6.
7	SECTION 21. IC 3-13-10-4 IS AMENDED TO READ AS
8	FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) This section
9	applies to a vacancy on the township board of a township not covered
10	by section 1 of this chapter.
11	(b) A vacancy shall be filled by the board of commissioners of the
12	county at a regular or special meeting. The county auditor shall give
13	notice of the meeting. which Except as provided in subsection (c), the
14	meeting shall be held within not later than thirty (30) days after the
15	vacancy occurs. The notice must:
16	(1) be in writing;
17	(2) state the purpose of the meeting;
18	(3) state the date, time, and place of the meeting; and
19	(4) be sent by first class mail to each commissioner at least ten
20	(10) days before the meeting.
21	(c) If a vacancy exists because of the death of a township board
22	member, the meeting required under subsection (b) shall be held
23	not later than thirty (30) days after the county auditor receives
24	notice of the death under IC 5-8-6. The county auditor may not
25	give the notice required under subsection (b) until the county
26	auditor receives notice of the death under IC 5-8-6.
27	SECTION 22. IC 3-13-10-5 IS AMENDED TO READ AS
28	FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) This section
29	applies to a vacancy in the office of judge of a small claims court or
30	small claims court constable not covered by section 1 of this chapter.
31	(b) A vacancy shall be filled by the township board at a regular or
32	special meeting. The chairman of the township board shall give notice
33	of the meeting. which Except as provided in subsection (c), the
34	meeting shall be held within not later than thirty (30) days after the
35	vacancy occurs. The notice must:
36	(1) be in writing;
37	(2) state the purpose of the meeting;
38	(3) state the date, time, and place of the meeting; and
39	(4) be sent by first class mail to each board member at least ten
40	(10) days before the meeting.
41	(c) If a vacancy exists because of the death of a judicial officer,

the meeting required under subsection (b) shall be held not later



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rec tow	n thirty (30) days after the chairman of the township board eives notice of the death under IC 5-8-6. The chairman of the enship board may not give the notice required under subsection
` ′	until the chairman of the township board receives notice of the through the under IC 5-8-6.
	SECTION 23. IC 3-13-11-3, AS AMENDED BY P.L.174-2002
	CTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVI
	LY 1, 2003]: Sec. 3. (a) Except as provided in subsection
	sections (b) and (c) and section 3.5 of this chapter, not later than
	(10) days after a vacancy occurs in an office subject to this chapter
the	county chairman:
	(1) of the county in which the greatest percentage of the

- population of the election district of the office is located; and
- (2) of the same political party that elected or selected the official who vacated the office;

shall give notice of a caucus to all eligible precinct committeemen.

- (b) A county chairman may give notice of a caucus before the time specified under subsection (a) if a vacancy will exist because the official has:
 - (1) submitted a written resignation under IC 5-8-3.5; or
 - (2) been elected to another office.
- (c) Notwithstanding IC 5-8-4, a person may not withdraw the person's resignation after the resignation has been accepted by the person authorized to accept the resignation less than seventy-two (72) hours before the announced starting time of a caucus under this section.
- (d) Except as provided in **subsection** (e) and section 3.5 of this chapter, a caucus under this section shall be held after giving notice to caucus members under section 4 of this chapter and not later than thirty (30) days after the vacancy occurs.
- (e) If a vacancy exists in an office because a circumstance has occurred under IC 36-5-2-6.5(2), the caucus shall meet and select an individual to fill the vacancy not later than thirty (30) days after the county chairman receives notice of the death under IC 5-8-6. The county chairman shall give notice to caucus members under section 4 of this chapter. The county chairman may not give the notice required under section 4 of this chapter until the county chairman receives notice of the death under IC 5-8-6.

SECTION 24. IC 3-13-11-3.5, AS ADDED BY P.L.174-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.5. (a) If a vacancy exists on a town council because a circumstance has occurred under IC 36-5-2-6.5(2) through $\frac{1C}{36-5-2-6.5(4)}$, IC 36-5-2-6.5(3), the caucus shall meet and select an



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individual to fill the vacancy not later than thirty (30) days after the county chairman receives a notice of the vacancy under IC 5-8-5. If the vacancy is due to the death of a town council member, and the county chairman is aware of the member's death before receiving a notice of
the death, the caucus may meet before the county chairman receives the
notice of the death.
(b) The county chairman shall:
(1) give notice of the caucus meeting to caucus members under
section 4 of this chapter; and
(2) keep the notice of the vacancy with the records of the caucus.
SECTION 25. IC 5-8-5-1, AS ADDED BY P.L.174-2002,
SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2003]: Sec. 1. This chapter applies when a vacancy must be
filled under:

- (1) IC 3-13-9; or
- (2) IC 3-13-11;

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due to a reason set forth in IC 36-5-2-6.5(2) through IC 36-5-2-6.5(4). IC 36-5-2-6.5(3).

SECTION 26. IC 5-8-5-3, AS ADDED BY P.L.174-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The town council may hold a public meeting to determine whether a circumstance has occurred under IC 36-5-2-6.5(2) through IC 36-5-2-6.5(4) IC 36-5-2-6.5(3) that results in a vacancy on the town council. The town council may set a meeting for making the determination on its own motion, or a person may petition the town council to set a meeting to make the determination. The town council may grant or deny a petition for a meeting.

(b) If a person files a petition with the council, the petition must state the basis for the person's claim that a circumstance has occurred under IC 36-5-2-6.5(2) through IC 36-5-2-6.5(4). **IC 36-5-2-6.5(3).**

SECTION 27. IC 5-8-5-4, AS ADDED BY P.L.174-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) If the town council is reasonably satisfied that any circumstance has occurred under IC 36-5-2-6.5(2) through $\frac{1C}{36-5-2-6.5(4)}$, IC 36-5-2-6.5(3), the council may, by an affirmative vote of a majority of the members appointed to the body, vote to declare a vacancy in the town council membership. The member who is alleged to have vacated the member's seat may participate in the meeting as a member, but may not vote on the issue.

(b) If the member who is the subject of the petition or motion does not attend the meeting at which the town council makes the determination that a vacancy exists, the town council shall mail notice

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1	of its determination to the member.
2	(c) If the town council determines that a vacancy exists, the town
3	clerk-treasurer shall give the circuit court clerk notice of the
4	determination not later than five (5) days after the date of the town
5	council's determination. The circuit court clerk shall give notice to the
6	county chairman if a caucus is required under IC 3-13-11 to fill the
7	vacancy.
8	SECTION 28. IC 5-8-6 IS ADDED TO THE INDIANA CODE AS
9	A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
10	1, 2003]:
11	Chapter 6. Notice of Death of an Officeholder
12	Sec. 1. This chapter applies when a vacancy must be filled
13	under:
14	(1) IC 3-13-4;
15	(2) IC 3-13-5;
16	(3) IC 3-13-6;
17	(4) IC 3-13-7;
18	(5) IC 3-13-8;
19	(6) IC 3-13-9;
20	(7) IC 3-13-10; or
21	(8) IC 3-13-11;
22	due to the death of an elective or a judicial officer.
23	Sec. 2. As used in this chapter, "officeholder" refers to an
24	elective or a judicial officer.
25	Sec. 3. (a) A person who knows of the death of an officeholder
26	may certify the death to the following:
27	(1) The governor, in the case of the death of any of the
28	following:
29	(A) An individual who holds a state office (as defined in
30	IC 3-5-2-48).
31	(B) An individual who is a judge of a circuit, superior,
32	probate, county, or city court.
33	(2) The secretary of state, in the case of the death of an
34	individual who holds a legislative office.
35	(3) The circuit court clerk of the county in which the
36	officeholder resided, in the case of the death of an officeholder
37	of a county, city, town, or township not covered under
38	subdivision (1).
39	(b) A person who certifies the death of an officeholder shall:
40	(1) state the information the person has to believe the
41	officeholder has died; and
42	(2) certify, under the penalties for perjury, that to the best of



1	the person's knowledge and belief, the information stated is
2	true.
3	Sec. 4. When the governor:
4	(1) obtains information concerning the death of an individual
5	who:
6	(A) holds a state office (as defined in IC 3-5-2-48); or
7	(B) is a judge of a circuit, superior, probate, county, or city
8	court; and
9	(2) is reasonably satisfied that the information described in
10	subdivision (1) is true;
11	the governor shall fill the vacancy as provided by law.
12	Sec. 5. (a) When the secretary of state:
13	(1) obtains information concerning the death of an individual
14	who holds a legislative office; and
15	(2) is reasonably satisfied that the information described in
16	subdivision (1) is true;
17	the secretary of state shall give notice of the death to the state
18	chairman of the political party that elected or selected the deceased
19	individual.
20	(b) The secretary of state shall give the notice required by
21	subsection (a) not later than seventy-two (72) hours after the
22	requirements of subsection $(a)(1)$ and $(a)(2)$ are satisfied.
23	Sec. 6. (a) When a circuit court clerk:
24	(1) obtains information concerning the death of an
25	officeholder of a county, city, town, or township not subject to
26	section 4 of this chapter; and
27	(2) is reasonably satisfied that the information described in
28	subdivision (1) is true;
29	the circuit court clerk shall give notice of the death to the person
30	described in subsection (b).
31	(b) The circuit court clerk shall give the notice required by
32	subsection (a) to:
33	(1) the person who must give notice of any meeting or caucus
34	required to fill the vacancy caused by the death; or
35	(2) if a meeting or caucus is not required to fill the vacancy,
36	the person who has the power to fill the vacancy.
37	(c) The circuit court clerk shall give the notice required by
38	subsection (a) not later than seventy-two (72) hours after the

requirements of subsection (a)(1) and (a)(2) are satisfied.

